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CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

UNITED STATES OF AMERICA,	)	INDICTMENT
Plaintiff,	)	CASE NO. 1:16 CR 295
v.	)	JUDGE JUDGE BOYKO
BRIAN K. STEPP, RACHEL M. PENN,	)	Title 18, Sections 1001(a)(2), 1014, 1343, 1349, United States Code
Defendants.	)	

The Grand Jury charges:

General Allegations

At all times material to this Indictment:

1. Defendant BRIAN K. STEPP was a resident of various cities, all of which were located in the Northern District of Ohio.

2. Defendant RACHEL M. PENN was a resident of Sullivan, Ohio, which was located in the Northern District of Ohio,

3. Variety Contractors, Inc. "Variety Contractors"), was a closely held Ohio corporation, owned by a third party, that provided general contracting services for large public and commercial retail construction projects in Ohio and in other states. Variety Contractors'

principle place of business was in Seville, Ohio, which was located in the Northern District of Ohio.

4. In January 2013, Variety Contractors' Owner-President ("Owner") hired STEPP as Variety Contractors' Vice-President of New Construction and Development. Variety Contractors issued a corporate credit card to STEPP that was to be used only for business-related expenses and, in particular, expenses that STEPP incurred while on official travel for Variety Contractors, in furtherance of his duties for the company. In addition, as part of his compensation, in lieu of providing STEPP with a vehicle, the Owner agreed that Variety Contractors would pay STEP $500 per month as a car allowance to cover his local business-related travel. At the end of 2013, STEPP was promoted to Acting President and took over day-to-day control of Variety Contractors' operations because STEPP had expressed an interest in purchasing Variety Contractors at a future date.

5. As Acting President, STEPP had access to Variety Contractors' financial information, including banking, project expenditures and costs, and accounts receivable and payable information. STEPP was responsible on a daily basis for overseeing all project management and financial matters at Variety Contractors, including authorizing payment of invoices to third parties. Notwithstanding STEPP's promotion, the Owner retained ultimate decision-making authority regarding the overall direction of company as it related to significant projects. The Owner further retained oversight and control regarding all matters relating to STEPP's compensation, and the Owner's approval was required to make any changes. In particular, STEPP was not authorized to expend corporate funds on personal expenditures.

6. Between August 2013 and June 2015, PENN was employed by Variety Contractors in its Accounting Department, first working on accounts payable and accounts receivable, and later transitioning to Payroll and Human Resources. In these positions, PENN had access to Variety Contractors' financial books and records and, in particular, the internal requests for payments known at Variety Contractors as "Check Requests." Among other things, PENN was responsible for reviewing expense claims that employees submitted for reimbursement by Variety Contractors, verifying that the requested reimbursement was appropriate, and issuing reimbursement payments.

7. Fifth Third Bank was headquartered in Cincinnati, Ohio, and had branch offices located throughout Ohio and in other states. Fifth Third Bank was insured by the Federal Deposit Insurance Corporation ("FDIC'). Any time money was transferred via wire to or from an account at Fifth Third Bank to or from an account at another financial institution, information was transmitted by means of wire communication from the other financial institution to Fifth Third Bank in Cincinnati, Ohio.

8. Bank of America was headquartered in Charlotte, North Carolina, and had no branch offices located in the Northern District of Ohio. Any time money was transferred via wire to or from an account at Bank of America to or from an account at another financial institution, information was transmitted by means of wire communication from the other financial institution to Bank of America in Charlotte, North Carolina.

9. Entrex, Inc., was a private equity broker located in Chicago, Illinois.

10. Hunting Dog Capital, LLC was a group of private equity investors, located in San Francisco, California.

The Scheme to Defraud Variety Contractors

11. From in or around February 2014, and continuing through in or around May 2015, in the Northern District of Ohio, Eastern Division, Defendant BRIAN K. STEPP, Defendant RACHEL M. PENN, and others, devised and intended to devise a scheme and artifice to defraud and obtain money and property from Variety Contractors by means of false and fraudulent pretenses, representations, and promises, which money and property was used to enrich STEPP and PENN and pay for personal expenditures on STEPP's behalf.

12. It was part of the scheme and artifice to defraud that STEPP incorporated a company known as S&S Kelsey LN ("S&S Kelsey"). S&S Kelsey did not engage in any actual business and did not have any actual employees, but instead was nothing more than a "shell" company.

13. It was further part of the scheme and artifice to defraud that STEPP generated and submitted to Variety Contractors fake invoices that purported to be for goods and services provided by S&S Kelsey and other outside vendors in connection with Variety Contractors' construction projects when, in truth and in fact, the goods and services listed in those invoices were not provided.

14. It was further part of the scheme and artifice to defraud that STEPP submitted "check requests" and purchase orders to Variety Contractors falsely indicating that goods and services had been provided to Variety Contractors in connection with its construction projects and authorizing payment for such goods and services, including those associated with the fake invoices STEPP had submitted.

15. It was further part of the scheme and artifice to defraud that STEPP and PENN fraudulently caused Variety Contractors to make payments to STEPP and to PENN and to third-parties for STEPP's benefit by issuing checks and otherwise paying the fake invoices that STEPP had submitted to Variety Contractors.

16. Such fake invoices, check requests, purchase orders, and fraudulent payments included, but were not limited to, the following:

a. A check request dated July 14, 2014, requesting payment of $7,587.79 to "KDK" purporting to be for "Flooring material Carpet and VCT." Variety Contractors issued a check to "KDK" in the requested amount on the same date. STEPP delivered this check to KDK Auto Broker Inc. to pay the balance that he owed on a 2006 Jeep Liberty that he purchased for his daughter.

b. A check request dated September 22, 2014, requesting payment of $31,500 to "G.C.I." purporting to be a "Deposit for Exterior Metal Panels" in connection with a construction project for Menards. Variety Contractors issued a check to "G.C.I." in the requested amount the following day. On September 25, 2014, PENN reissued a new check in the same amount in place of the original check, this time made payable to "Ganley." As PENN then knew, STEPP delivered this check to Ganley Chevrolet Inc. to partially pay for a new 2015 Chevy Silverado pickup truck that he purchased in his wife's name.

c. A check for $2,000 dated September 26, 2014, made payable to RACHEL PENN but recorded in the books and records of Variety Contractors as a "Superintendent Expense" associated with a project for Verizon in North Ridgeville, Ohio.

d. An invoice dated December 12, 2014, requesting payment of $8,972.04 to "S&S LLC" in Harrisburg, Pennsylvania, purporting to be for "stainless corner guards," "sheets of stainless steel panels," and other construction materials in connection with a construction project for Weis Markets in Doylestown, Pennsylvania. Variety Contractors issued a check to "S&S LLC" care of "S&S Kelsey, LLC" in the requested amount on January 9, 2015, which STEPP deposited into a bank account that he controlled.

e. A check request dated December 30, 2014, requesting payment via wire of $36,300 to "My Real Expert" purporting to be for "Kroger preferred

Vendor for materials" in connection with a construction project for Kroger in Ashland, Kentucky. On the same day, Variety Contractors wired the requested amount to the owners of a home located in Strongsville, Ohio, who were using a third-party intermediary called My Real Expert to rent their home. STEPP used this money to pay for his rental of that home for a one-year period.

f. An invoice dated February 12, 2015, requesting payment of $17,386.82 to "S&S LLC" in Brunswick, Ohio, purporting to be for "Stainless Steel Corners," "Stainless Steel Panels," and other construction materials in connection with a construction project for WalMart in Jacksonville, Florida. STEPP approved a purchase order for these materials on or about February 26, 2015, and Variety Contractors issued a check to "S&S LLC" in the requested amount on the same day. STEPP deposited this check into a bank account that he controlled.

g. A purchase order dated February 26, 2015, requesting payment of $25,000 to "Entrex" purporting to be "PER INVOICE #0198 'LICENSE FEE'" in connection with a construction project for Walmart in Jacksonville, Florida. Variety Contractors wired the requested amount to Entrex the same day. STEPP used this money to pay a fee to Entrex, Inc. in connection with his attempt to obtain a $7 million loan.

h. An invoice dated April 16, 2015, purporting to be from Hunting Dog Capital, LLC for "cooler Coils and Racking" and other items, along with a check request of the same date requesting payment via wire of $50,000 to "Hunting Dog LLC" purporting to be for "HVAC Equipment" in connection with a construction project for Walmart in Jacksonville, Florida. Variety Contractors wired the requested amount to Hunting Dog Capital the same day. STEPP paid this money to Hunting Dog Capital, LLC in connection with his attempt to obtain a $7 million loan.

17. It was further part of the scheme and artifice to defraud that STEPP fraudulently submitted to Variety Contractors vouchers requesting reimbursement for expenses that Variety Contractors had already paid for directly. Such vouchers included, but were not limited to, the following:

a. Voucher for the period June 4 to June 30, 2014, that included $975.99 in charges for rental cars and $298.85 for auto repairs, both of which were also charged to the credit card that Variety Contractors issued to STEPP, which Variety Contractors separately paid.

b. Voucher for the period September 5 to September 8, 2014, that included $4,405.19 in charges for "ECI" and $211.74 in charges for a hotel, both of which were also charged to the credit card that Variety Contractors issued to STEPP, which Variety Contractors separately paid.

c. Voucher for the period October 1 to October 30, 2014, that included $1,015.29 in charges for hotels and $298.89 for auto repairs, all of which were also charged to the credit card that Variety Contractors issued to STEPP, which Variety Contractors separately paid.

d. Voucher for the period November 1 to December 1, 2014, that included $1,072.06 in charges for rental cars and $837.64 in charges for hotels, all of which were also charged to the credit card that Variety Contractors issued to STEPP, which Variety Contractors separately paid.

18. It was further part of the scheme and artifice to defraud that STEPP fraudulently submitted to Variety Contractors vouchers requesting reimbursement for amounts greater than he was authorized to receive and reimbursement of expenses for which Variety Contractors had already reimbursed him. Such vouchers included, but were not limited to, the following:

a. Voucher for the period February 11 to March 3, 2014, that included $1,000.00 in claims for a March car allowance when STEPP was only authorized to be paid a $500.00 car allowance.

b. Voucher for the period March 3 to April 1, 2014, that included $1,189.00 in claims for a March car allowance and insurance that PENN had paid to STEPP on Variety Contractor's behalf the previous month.

c. Voucher for the period June 29 to July 31, 2014, that included $1,205.00 in claims for a June car allowance and insurance that PENN had paid to STEPP on Variety Contractor's behalf the previous month.

d. Voucher for the period October 1 to October 30, 2014, that included $1,250.00 in claims for an October car allowance and insurance that PENN had paid to STEPP on Variety Contractor's behalf the previous month.

e. Voucher for the period November 1 to December 1, 2014, that included $1,250.00 in claims for a November car allowance and insurance that PENN had paid to STEPP on Variety Contractor's behalf the previous month.

19. It was further part of the scheme and artifice to defraud that PENN fraudulently caused Variety Contractors to reimburse STEPP for expenses that she knew Variety Contractors had already separately paid and to reimburse STEPP for expenses that she knew Variety Contractors had already reimbursed STEPP, such as those expenses set forth in paragraphs 17 and 18, above.

20. It was further part of the scheme and artifice to defraud that STEPP fraudulently used credit card accounts maintained by Variety Contractors to pay for STEPP's personal expenses, such as membership and usage fees at a country club; payments made to purchase vehicles for STEPP and his family members and accessories for such vehicles; local hotel charges; charges at stores such as Victoria's Secret and GNC; and legal fees.

21. It was further part of the scheme and artifice to defraud that PENN caused Variety Contractors to pay the credit card bills that she knew included charges for STEPP's personal expenditures without requiring STEPP to reimburse Variety Contractors for those expenditures.

Effect of the Scheme to Defraud Variety Contractors

22. As a result of Defendants' fraudulent scheme and conduct, Variety Contractors sustained losses in excess of approximately $275,000.

The Grand Jury further charges:

COUNT 1
(Conspiracy to Commit Wire Fraud, 18 U.S.C. § 1343, in violation of 18 U.S.C. § 1349)

23. The factual allegations of paragraphs 1 through 22 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

24. From in or around February 2014, and continuing through in or around May 2015, in the Northern District of Ohio, Eastern Division, and elsewhere, BRIAN K. STEPP, RACHEL M. PENN, and others known and unknown to the Grand Jury, did knowingly and intentionally combine, conspire, confederate, and agree together and with each other to devise and intend to devise a scheme and artifice to defraud Variety Contractors and to obtain money and property from Variety Contractors by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute the scheme and artifice to defraud, caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

Object of the Conspiracy

25. The object of the conspiracy was to divert thousands of dollars from Variety Contractors to enrich BRIAN K. STEPP, RACHEL M. PENN, and others, and to pay personal expenses and prior debts that STEPP had incurred.

The Use of Interstate Wires in Furtherance of the Conspiracy

26. For the purpose of executing and attempting to execute the scheme and artifice to defraud described above, BRIAN K. STEPP and RACHEL M. PENN caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, to and from the Northern District of Ohio and elsewhere. Such interstate wires included, but were not limited to wire transfers of funds from Variety Contractors' bank account to pay third parties to whom STEPP personally owed money; funds and related transactional information sent from Variety's Contractor's bank accounts to pay checks written to third parties

to whom STEPP personally owed money; emails to and from Entrex and Hunting Dog Capitol, Inc.; and charges to STEPP's credit card issued by Variety Contractors for personal items.

All in violation of Title 18, United States Code, Section 1349.

The Grand Jury further charges:

COUNTS 2 to 13
(Wire Fraud, 18 U.S.C. §§ 1343 & 2)

27. The factual allegations of paragraphs 1 through 10 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

The Scheme to Defraud

28. From in or around March 2014, and continuing through in or around May 2015, in the Northern District of Ohio, Eastern Division, and elsewhere, BRIAN K. STEPP and RACHEL M. PENN, aided and abetted by each other, devised and intended to devise a scheme and artifice to defraud and obtain money and property from Variety Contractors, by means of false and fraudulent pretenses, representations, and promises.

29. It was part of the scheme and artifice to defraud that: The factual allegations of paragraphs 11 through 22 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

The Use of Interstate Wire Communications

30. On or about the dates set forth below, in the Northern District of Ohio and elsewhere, STEPP and PENN, as designated in the individual counts below, for the purpose of executing and attempting to execute the scheme and artifice to defraud described above, transmitted and caused to be transmitted by means of wire communication in interstate

commerce, writings, signs, signals, pictures and sounds, as described in the following chart, each transmission constituting a separate count:

COUNT	CHARGED DEFENDANT	Approximate Date of Wire	Description	Sent By / Location	Sent To / Location
2	STEPP	July 11, 2014	$500 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	KDK, Brunswick, OH	JP Morgan Chase, Newark, DE
3	STEPP PENN	September 22, 2014	$1,000 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Ganley Chevrolet, Inc., Brookpark, OH	JP Morgan Chase, Newark, DE
4	STEPP PENN	September 25, 2014	Funds and transaction information associated with Variety Contractor Check # 31841 in amount of $31,500 payable to Ganley	$5^{th}/3^{rd}$ Bank, Northern District of Ohio (Account of Variety Contractors)	Bank of America, North Carolina, Texas and Virginia (Account of Ganley Chevrolet, Inc.)
5	STEPP	February 26, 2015	Wire transfer of $25,000 to Entrex	$5^{th}/3^{rd}$ Bank, Northern District of Ohio (Account of Variety Contractors)	Wells Fargo Bank, San Francisco, CA (Entrex Account)

6	STEPP	April 16, 2015	Wire transfer of $50,000 to Hunting Dog Capital, LLC	5th/3rd Bank, Northern District of Ohio (Account of Variety Contractors)	First Republic Bank, San Francisco, CA (Hunting Dog Capital, LLC Account)
7	STEPP PENN	September 5, 2014	$210.17 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Dillards, Strongsville, OH	JP Morgan Chase, Newark, DE
8	STEPP PENN	September 15, 2014	$1,221.47 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Weymouth Country Club, Medina, OH	JP Morgan Chase, Newark, DE
9	STEPP PENN	October 1, 2014	$1,567.38 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	A Better Truck Cap, Medina, OH	JP Morgan Chase, Newark, DE
10	STEPP PENN	November 1, 2014	$127.48 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Victoria's Secret, Lincolnwood, IL	JP Morgan Chase, Newark, DE

11	STEPP PENN	December 5, 2014	$647.76 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Residence Inn, Middleburgh Heights, OH	JP Morgan Chase, Newark, DE
12	STEPP PENN	December 10, 2014	$1,616.47 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Crown Plaza Airport Hotel, Cleveland, OH	JP Morgan Chase, Newark, DE
13	STEPP PENN	January 26, 2015	$39.95 credit card charge to Variety Contractor JP Morgan Chase Credit card ending in #9547	Rocket Lawyer, CA	JP Morgan Chase, Newark, DE

All in violation of Title 18, United States Code, Sections 1343 and 2.

The Grand Jury further charges:

COUNTS 14 to 18
(Wire Fraud, 18 U.S.C. §§ 1343)

31. The factual allegations of paragraphs 1, 3 through 5, and 7 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

The Scheme to Defraud

32. From in or around January 2015, and continuing through in or around May 2015, in the Northern District of Ohio, Eastern Division, and elsewhere, BRIAN K. STEPP devised

and intended to devise a scheme and artifice to defraud and obtain money and property from Hunting Dog Capital, LLC by means of false and fraudulent pretenses, representations, and promises.

33. It was part of the scheme and artifice to defraud that:

a. STEPP engaged Entrex, Inc. to locate a private equity group that would be willing to loan him $7 million, which he claimed he needed to purchase Variety Contractors.

b. STEPP sought to use the business receipts of Variety Contractors to secure the requested loan.

c. STEPP falsified and caused to be falsified copies of Variety Contractors financial statements and other financial documents, which he then caused to be sent to Entrex and Hunting Dog Capital, LLC.

d. STEPP falsified and caused to be falsified details of Variety Contractors' completed projects, which he then caused to be sent to Entrex and Hunting Dog Capital, LLC.

The Use of Interstate Wire Communications

34. On or about the dates set forth below, in the Northern District of Ohio and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud described above, STEPP transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, as described in the following chart, each transmission constituting a separate count:

COUNT	Approximate Date of Wire	Description	Sent By / Location	Sent To / Location
15	March 9, 2015	Falsified financial documents relating to Variety Contractors	Variety Contractors, Seville, OH	Entrex, Inc., Chicago, IL

16	March 9, 2015	Falsified financial documents relating to Variety Contractors	Variety Contractors, Seville, OH	Entrex, Inc., Chicago, IL
17	February 26, 2015	Wire transfer of $25,000 to Entrex	5th/3rd Bank, Northern District of Ohio (Account of Variety Contractors)	Wells Fargo Bank, San Francisco, CA (Entrex Account)
18	April 16, 2015	Wire transfer of $50,000 to Hunting Dog Capital, LLC	5th/3rd Bank, Northern District of Ohio (Account of Variety Contractors)	First Republic Bank, San Francisco, CA (Hunting Dog Capital, LLC Account)

All in violation of Title 18, United States Code, Sections 1343.

The Grand Jury further charges:

COUNT 19
(False Statement on Loan Application, 18 U.S.C. § 1014)

35. The factual allegations of paragraph 1 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

36. On or about August 18, 2015, BRIAN K. STEPP submitted a loan application to Fifth Third Bank seeking to obtain a line of credit in the amount of $20,000 for Ashley Contractors, LLC.

37. On or about August 18, 2015, in the Northern District of Ohio, Eastern Division, BRIAN K. STEPP knowingly made a false statement for the purpose of influencing the action of Fifth Third Bank, an institution the accounts of which were insured by the FDIC, in connection with an application for a loan, in that:

a. BRIAN K. STEPP stated that he had started Ashley Contractors, LLC, in January 2013, when, in truth and in fact, as STEPP then well knew, he first incorporated Ashley Contractors, LLC, on July 24, 2015;

b. BRIAN K. STEPP stated that Ashley Contractors' gross income for the last fiscal year prior to the loan application was $240,000, when, in truth and in fact, as STEPP then well knew, Ashley Contractors had not any earned income the previous fiscal year;

c. BRIAN K. STEPP stated that no owners of Ashley Contractors had ever been arrested for any crime other than a minor traffic violation, when, in truth and in fact, as STEPP then well knew, he had previously been arrested multiple times for theft and other non-traffic-related criminal charges;

d. BRIAN K. STEPP stated that STEPP owned his residence and the value of that residence was $430,000, when, in truth and in fact, as STEPP then well knew, he did not own the residence that he listed on the application.

All in violation of Title 18, United States Code, Section 1014.

The Grand Jury further charges:

COUNT 20
(Conspiracy to Commit Wire Fraud, 18 U.S.C. § 1343, in violation of 18 U.S.C. § 1349)

38. The factual allegations of paragraphs 1 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

39. Veterans United Home Loan ("Veterans United") was a loan origination company located in Columbia, Missouri.

40. From in or around November 2015, through in or around December 2015, in the Northern District of Ohio, Eastern Division, and elsewhere, BRIAN K. STEPP, and others known to the Grand Jury, did knowingly and intentionally combine, conspire, confederate, and agree together and with each other to devise and intend to devise a scheme and artifice to defraud Veterans United and to obtain money and property from that institution by means of false and

fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute the scheme and artifice to defraud, caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

Object of the Conspiracy

41. The object of the conspiracy was to obtain a $340,000 loan to purchase a residence for Defendant BRIAN K. STEPP and his unindicted coconspirator that would not otherwise be made by falsely overstating STEPP's income.

Manner and Means

42. It was part of the conspiracy that STEPP provided materially false statements about his income to Veterans United on his application for a loan.

43. It was further part of the conspiracy that STEPP failed to inform Veterans United that the contact person he listed for his purported employer, Ashley Contractors, was his live-in girlfriend and unindicted coconspirator, who also planned to live at the residence for which STEPP sought the loan.

44. It was further part of the conspiracy that STEPP's unindicted coconspirator provided materially false and fraudulent information on the Ashley Contractors Verification of Employment form submitted to Veterans' United in connection with STEPP's loan application.

45. It was further part of the conspiracy that STEPP's unindicted coconspirator grossly overstated the income that STEPP actually received from Ashley Contractors.

The Use of Interstate Wires in Furtherance of the Conspiracy

46. For the purpose of executing and attempting to execute the scheme and artifice to defraud described above, BRIAN K. STEPP and his unindicted coconspirator caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures and sounds, to and from the Northern District of Ohio and elsewhere. Such interstate wires included, but were not limited to email correspondence between a representative of Veterans' United and STEPP's unindicted coconspirator, and the transfer of funds to STEPP in making the loan.

All in violation of Title 18, United States Code, Section 1349.

The Grand Jury further charges:

COUNT 21
(False Statement, in violation of 18 U.S.C. § 1001(a)(2))

47. The factual allegations of paragraphs 1 through 22 are realleged and incorporated by reference as if fully set forth herein.

48. From in or around August 15, 2015, through on or about the date of this Indictment, the Federal Bureau of Investigation ("FBI"), which was part of the executive branch of the Government of the United States, acting in a matter within its jurisdiction, was investigating BRIAN K. STEPP, Rachel M. Penn, and others, in connection with schemes to defraud Variety Contractors, Hunting Dog Capital, LLC, and others.

49. From on or about September 17, 2015, through on or about the date of this Indictment, a Federal Grand Jury sitting in the Northern District of Ohio was conducting a criminal investigation, pursuant to its powers as set forth under Rule 6 of the Federal Rules of

Criminal Procedure, into the activities of BRIAN K. STEPP, Rachel M. Penn, and others, in connection with schemes to defraud Variety Contractors, Hunting Dog Capital, LLC, and others.

50. On or about October 30, 2015, a Special Agent of the FBI interviewed BRIAN K. STEPP in connection with the investigation.

51. On or about October 30, 2015, in the Northern District of Ohio, Eastern Division, BRIAN K. STEPP, in a matter within the jurisdiction of the executive branch of the Government of the United States knowingly and willfully made the following materially false, fictitious, and fraudulent statements and representations:

a. STEPP stated to a Special Agent of the FBI that the Owner of Variety Contractors authorized him to use Variety Contractors' funds to make personal expenditures. In truth and in fact, as STEPP then well knew, the Owner did not authorize STEPP to spend Variety Contractors' money in this way.

b. STEPP stated to a Special Agent of the FBI that the Owner was aware of and authorized STEPP's purchase of a new 2015 Chevy Silverado truck for himself using Variety Contractors funds and had signed the checks. In truth and in fact, as STEPP then well knew, the Owner did not know that STEPP had purchased the truck and did not knowingly sign the checks using Variety Contractors' funds to pay for it.

c. STEPP stated to a Special Agent of the FBI that the Owner knew about and authorized every payment of STEPP's personal expenses because the Owner was in the office multiple times a week during this period and signed every check. In truth and in fact, as STEPP then well knew, the Owner was rarely in the office during this period and did not personally sign such checks and, further, that STEPP was overseeing Variety Contractors' financial expenditures during this time.

d. STEPP stated to a Special Agent of the FBI that the Owner required that all of Variety Contractors' costs be charged to a project regardless of whether they were related to a project or not. In truth and in fact, as STEPP then well knew, the Owner did not require such accounting practices and, indeed, STEPP caused payments to be charged to projects as a way to conceal his fraudulent conduct.

e. STEPP stated to a Special Agent of the FBI that the books and records of Variety Contractors falsely reflected a profit of $300,000 instead of the true actual loss of $1.3 million due to accounting practices that the Owner required to be followed. In truth and in fact, as STEPP then well knew, the books and records of Variety Contractors reflected such misleading financial information due to STEPP's own false changes and modifications to Variety Contractors' books and records.

52. STEPP made the false statements described above with the intent to corruptly obstruct, influence and impede and to attempt to obstruct, influence and impede the investigation of the FBI and the Federal Grand Jury described above. STEPP's false statements caused Special Agents of the FBI to perform additional investigation.

In violation of Title 18, United States Code, Section 1001(a)(2).

The Grand Jury further charges:

COUNT 22
(False Statement, in violation of 18 U.S.C. § 1001(a)(2))

53. The factual allegations of paragraphs 1 through 22 are realleged and incorporated by reference as if fully set forth herein.

54. From in or around August 15, 2015 through on or about the date of this Indictment, the Federal Bureau of Investigation ("FBI"), which was part of the executive branch of the Government of the United States, acting in a matter within its jurisdiction, was investigating Brian K. Stepp, RACHEL M. PENN, and others, in connection with schemes to defraud Variety Contractors, Hunting Dog Capital, LLC, and others.

55. From on or about September 17, 2015, through on or about the date of this Indictment, a Federal Grand Jury sitting in the Northern District of Ohio was conducting a criminal investigation, pursuant to its powers as set forth under Rule 6 of the Federal Rules of

Criminal Procedure, into the activities of Brian K. Stepp, RACHEL M. PENN, and others, in connection with schemes to defraud Variety Contractors, Hunting Dog Capital, LLC, and others.

56. On or about October 29, 2015, a Special Agent of the FBI interviewed RACHEL M. PENN in connection with the investigation.

57. On or about October 29, 2015, in the Northern District of Ohio, Eastern Division, RACHEL M. PENN, in a matter within the jurisdiction of the executive branch of the Government of the United States, knowingly and willfully made the following materially false, fictitious, and fraudulent statements and representations:

a. PENN admitted to a Special Agent of the FBI that, in 2014, she changed the payee on a particular Variety Contractor check to "Ganley" and that Brian Stepp used this check to purchase a truck, but stated that she informed the Controller that she did so, which prompted a meeting where Variety Contractor's Owner said to "do whatever Stepp tells you to do." In truth and in fact, as PENN then well knew, PENN did not inform the Controller that she had changed the payee on the check, a meeting was not held in response to PENN changing the check, and PENN further knew the Owner had not directed employees to permit Stepp to spend Variety Contractors' funds on Stepp's personal expenditures.

b. PENN stated to a Special Agent of the FBI that the Variety Contractors' check in the amount of $2,000 that she received on or about September 26, 2014, was a bonus payment made in connection with her job performance. In truth and in fact, as PENN then well knew, the payment was made to reward PENN for changing the payee on a Variety Contractors check to "Ganley," which PENN knew was not a company expense and instead used by Brian Stepp to purchase a truck for personal use.

58. PENN made the false statements described above with the intent to corruptly obstruct, influence and impede and to attempt to obstruct, influence and impede the investigation of the FBI and the Federal Grand Jury described above. PENN's false statements caused Special Agents of the FBI to perform additional investigation.

In violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE

The Grand Jury further charges:

59. For the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and 28 United States Code, Section 2461(c), the allegations of Counts 1 through 22 are incorporated herein by reference. As a result of the foregoing offenses, Defendants BRIAN K. STEPP and RACHEL M. PENN shall forfeit to the United States any property real or personal, which constitutes or is derived from proceeds traceable to a violation of the charges set forth herein; including, but not limited to, the following property:

a. 2015 Chevrolet Silverado, VIN: 1GC1KWEG1FF179713.

60. Substitute Assets: In the event that any property subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461, as a result of any act or omission of the defendants:

a. cannot be located upon exercise of due diligence;

b. has been transferred or sold to, or deposited with a third party;

c. has been placed beyond the jurisdiction of this Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28 United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants, up to an amount equivalent to the value of the property forfeitable under Sections 981 and 2461.

A TRUE BILL.

Original document -- Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.